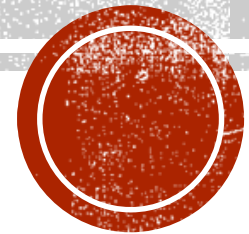


# EFFECTIVE USE OF THE ARSON REPORTING IMMUNITY STATUTE

Texas State Fire Marshal's Office  
Science Advisory Workgroup

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# PURPOSE OF PRESENTATION

- Answer the *5 W's* of the use of the Texas Arson Immunity Reporting Statute (*Texas Insurance Code, Title 10, Subtitle D, Chapter 2001, Sec. 2001.006*) by Fire Marshals and Investigators
  - 1. *Who* is eligible to use the statute?
  - 2. *What* does the statute provide?
  - 3. *When* is it best to apply the statute?
  - 4. *Where* is the information obtained most effective?
  - 5. *Why* should fire investigators utilize the statute?

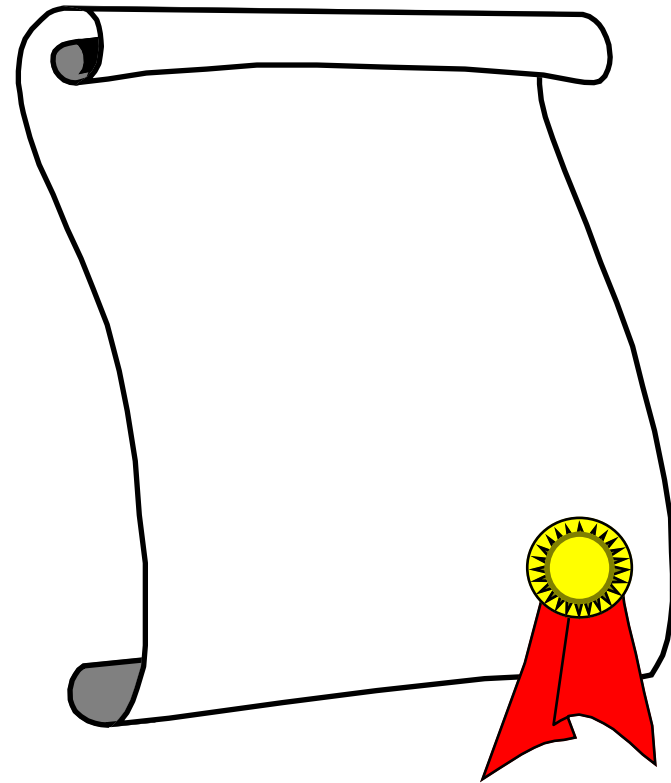
# BACKGROUND: FIRE INVESTIGATION CHALLENGES OF TODAY

- Overwhelming size of investigative caseloads
- Lack of expertise possessed by investigators and prosecutors
- Complexity of criminal conspiracy schemes
- Difficulty of obtaining and preserving documentary evidence



# KEY DOCUMENTARY EVIDENCE IS OFTEN NEEDED BY FIRE INVESTIGATORS

- ☐ Insurance application
- ☐ Policy premium payment records
- ☐ Property description and ownership
- ☐ Underwriting data
- ☐ Statements and Examinations under Oath
- ☐ Reports of Origin and Cause Investigations



# 1. WHO IS ADDRESSED BY THE ARSON REPORTING IMMUNITY STATUTE?

- A law states that insurance companies should provide items of information that relate to a fire investigation upon request from a designated public official.



# TEXAS INSURANCE CODE, TITLE 10, SUBTITLE D, CHAPTER 2001, SEC. 2001.006.

- (a) The state fire marshal, a fire marshal of a political subdivision of this state, the chief of a fire department in this state, or a peace officer in this state may request an insurer investigating a fire loss of property in which damages or losses exceed \$1,000 to release information in the insurer's possession relating to that loss.



## 2. WHAT DOES THE ARSON REPORTING IMMUNITY STATUTE PROVIDE?

- ❑ In return for requests for information, the insurance company is immune from civil and criminal liability for releasing the information
- ❑ Ensures confidentiality of the information provided



# CONFIDENTIALITY OF INFORMATION

(d) In the absence of fraud or malice, an insurer or a person who provided information on the insurer's behalf is not liable for damages in a civil action or subject to criminal prosecution for an oral or written statement made or any other action taken that is necessary to supply information required under this section.

(e) An official or a department or agency employee who receives information under this section shall maintain the confidentiality of the information until the information is required to be released in a criminal or civil proceeding.



### 3. WHEN IS IT BEST TO OBTAIN INFORMATION USING THE STATUTE?

- ☐ Immediately after a fire loss
- ☐ When the continuity of public-private cooperation is most needed
- ☐ Protects time-sensitive insurance documentation that may later pertain to motive and responsibility for the fire.



# CONTINUED COOPERATION WITH INSURER

- (c) An insurer that has reason to suspect that a fire loss to the property of a person insured by the insurer was caused by incendiary means and that receives a request for information under Subsection (a) shall:
- (1) notify the requesting official and provide the official with all relevant material acquired during the insurer's investigation of the fire loss;
  - (2) cooperate with and take any action requested of the insurer by a law enforcement agency; and
  - (3) permit a person ordered by a court to inspect any of the insurer's records relating to the insurance policy and the loss.

## 4. WHERE IS THE INFORMATION OBTAINED MOST EFFECTIVE IN AN INVESTIGATION?

- ❑ Information that is directly related to the background of the insured and their property
- ❑ Much of the information needed to confirm ownership, lienholder data, and other potential witnesses



# 5. WHY SHOULD FIRE INVESTIGATORS ROUTINELY USE THE IMMUNITY STATUTE?

- Many fire investigators are still unaware of the procedures
- Encourages investigators to file requests ensures that your critical information is received, protected, and archived
- Eliminates the need for cumbersome subpoenas and documentary search warrants



# WRITTEN INFORMATION REQUESTS

The insurer shall release the requested information and cooperate with the official. The requested information may include only:

- (1) an insurance policy relevant to the fire loss under investigation and any application for a policy;
- (2) policy premium payment records;
- (3) the history of the insured's previous claims for fire loss; and
- (4) material relating to the investigation of the loss, including:
  - (A) statements of any person;
  - (B) proof of loss; or
  - (C) other relevant evidence.

## REQUEST FOR INFORMATION

Section 3737.16 (A) Ohio Revised Code

(142)

The Fire Marshal, any Assistant Fire Marshal, the Chief of any Deputy of the Arson Bureau established pursuant to Section 3737.02 of the Revised Code, the Chief of a fire department of any municipal corporation or township where a fire department is established, or the fire prevention officer of any municipal corporation or township where no fire department exists may request any insurance company investigating a fire loss of real or personal property to release any information in its possession relative to that loss.

TO:

PHOTO COPIES OF THIS FORM, IF PROPERLY COMPLETED, WILL BE ACCEPTED

RE:

CLAIM NO.

INSURED

ADDRESS

FIRE DEPT. INCIDENT NO.

DATE OF FIRE

This Department (or agency) is charged with the responsibility to investigate the fire which was reported by your company on the reverse side of this form. Pursuant to Section 3737.16 of the Ohio Revised Code, I/we hereby request the following additional information:

- ☐ (1) Any insurance policy relevant to a fire loss under investigation and any application for such a policy;
- ☐ (2) Policy premium payment records;
- ☐ (3) History of previous claims made by the insured for fire loss;
- ☐ (4) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other relevant evidence.
- ☐ (5) Other (Please specify type of information desired and preferred method of communication.)

Signature of Requesting Officer &amp; Rank

(Print)

Name of Officer Requesting Information

Department or Agency Requesting Information

Address

DATE \_\_\_\_\_



# SUMMARY

- Know the aspects and provisions of the your Reporting Immunity Act
- Plan for the collection and analysis of documentary evidence obtained
- Use the “best business practice” of consistently filing immunity statute requests in your cases



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